

Serial No.: 09/945,350

Attorney Docket No.: 05P12937US

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REMARKS

Upon entry of the instant Amendment, Claims 1, 2, 4-6, 8-33, 35, 36, and 38-71 are pending. Claims 3, 7, 34, 37, and 72-102 have been withdrawn. Applicant gratefully acknowledges that claim 64 was indicated to be allowable if amended into independent form and to include all the limitations of the base claim and any intervening claims. Claim 64 was so amended and thus should be allowable. Claims 1, 23, 28, and 31 have been amended to more particularly point out Applicants' invention. Claims 32 and 43 were amended to overcome the section 112 rejections. The Abstract has been amended in accordance with the suggestion in the Official Action. No new matter has been added.

The Abstract was objected to because of presence of the phrase "is described." The Abstract has been amended to remove the phrase, in accordance with the suggestion in the Official Action.

Claim 26 was rejected under 35 U.S.C. 110 as being directed to non-statutory subject matter. In particular, "data signals" were indicated to not be "a process, machine, manufacture, or composition of matter." Applicant respectfully submits that claim 26 depends from claim 23, which recites a "computer readable medium." Since a computer-readable medium is an article of manufacture, Applicant respectfully submits that the claim is, in fact, directed to statutory subject matter. Furthermore, applicant notes the recitation of data signals in an otherwise allowable claim is nowhere proscribed. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection.

Claim 43 (and by implication claim 32) was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, use to the term "that set top box" was alleged to be unclear. The claims have been amended to recite "the one." As such, the Examiner is respectfully requested to reconsider and

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withdraw the rejection.

Claims 1, 4-6, 8-13, 21-31, 40, and 48, have been rejected under 35 U.S.C. §102(b) as being anticipated by Brown, U.S. Patent No. 5,857,190 ("Brown"). In order for there to be anticipation, each and every element of the claimed invention must be present in a single prior reference. Applicant respectfully submits that the claimed invention is not taught, suggested, or implied by Brown.

As described in the Specification, aspects of the present invention relate to a system for collecting usage information for a computing device receiving digital content for presentation to enable various types of content modification. In some embodiments, a set-top box provides event messages; in response, new content is provided to the set-top box.

Thus, the claims 1, 23, 26, and 31 have been amended to recite "receiving new content in response to said event message." In contrast, Brown merely relates to a event logging system that can determine whether a given event is a loggable or non-loggable event. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection.

Claims 2, 18, 50-63, and 66-71 have been rejected under 35 U.S.C 103(a) as being unpatentable over Brown in view of Rautila, et al., U.S. Patent No. 6,918,131 ("Rautila"). Applicant respectfully submits that the claimed invention is not taught, suggested, or implied by Brown or Rautila, either singly or in combination.

Claims 2 and 18 depend from claim 1 and are believed allowable for reasons similar to those discussed above. Claims 50, 67, and 71 recites "selecting based on the identified viewers distinct content to be presented to the multiple display devices."

As discussed above, Brown merely relates to a system for logging events. Rautila is relied on for allegedly teaching receiving content based on the detected viewing of programs by viewers and inputs being received from users. However, like Brown, Rautila fails to teach or suggest, as recited in claim 1, "receiving new content in response to said event message." Furthermore, neither reference relates to sending

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new content based on viewers identified through event messages. Rautila relates to a *manual* system for a user to communicate program information to an interactive server.

Thus, program content is not sent responsive to event messages resulting from monitoring interactions. The present invention, however, provides for content to be sent based on the event message(s) received from the monitoring system.

Indeed, in requiring manual transmission of status information, rather than monitoring, Rautila, if anything, is representative of problems solved by the present invention. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection.

Claims 14, 16, and 17 were rejected under 35 U.S.C 103(a) as being unpatentable over Brown. Brown has been discussed above. For similar reasons, Applicant respectfully submits that Brown does not teach, suggest, or imply the invention of these dependent claims. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection.

Claims 15, 19 and 20 were rejected under 35 U.S.C. 103 as being unpatentable over Brown in view of Grauch. WO 98/31114 ("Grauch"). Applicant respectfully submits that the claimed invention is not taught, suggested, or implied by Brown or Grauch, either singly or in combination. Brown has been discussed above. Grauch is relied on merely for allegedly teaching providing an event message indicating a power down. Even if true, however, Grauch does not remedy the deficiencies of Brown with respect to the underlying independent claims. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection.

Claims 32, 33, 35, 36, 38-43, 45-47, and 49 were rejected under 35 U.S.C. 103 as being unpatentable over Brown in view of Lambert, U.S. Patent No. 6,-38,601 ("Lambert"). Applicant respectfully submits that the claimed invention is not taught, suggested, or implied by Brown or Lambert, either singly or in combination. Brown has been discussed above. Lambert is relied on for allegedly teaching polling a subscriber. However, Lambert fails to overcome the deficiencies of Brown with respect to the

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underlying claims.

With respect to independent claim 32 and independent claim 47, applicant notes that these claims recite sending a status message responsive to an event message, which like the transmission of other content, is not taught, suggested or implied by Brown or Lambert, as discussed above.

As such, the Examiner is respectfully requested to reconsider and withdraw the rejection.

Claim 44 was rejected under 35 U.S.C. 103 as being unpatentable over Brown, Lambert, and Rautilla. For reasons similar to those discussed above, Applicant respectfully submits that this claim, too, is allowable.

Claim 65 was rejected under 35 U.S.C. 103 as being unpatentable over Brown, Rautilla, and Kosterman et al., U.S. Patent No. 6,469,753 ("Klosterman"). Brown and Rautilla have been discussed above. Klosterman is relied on for allegedly teaching inserting advertising. However, even if true, Klosterman, like Brown and Rautila, fails to teach, suggest or imply the invention of the underlying claim 50. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection.

For all of the above reasons, Applicants respectfully submit that the application is in condition for allowance, which allowance is earnestly solicited.

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